

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

EDGAR BARAJAS,

Defendant.

8:13-CR-392**ORDER DENYING MOTION TO
REDUCE SENTENCE**

This matter is before the Court on the defendant's *pro se* Motion to Reduce Sentence pursuant to 18 U.S.C. § 3582(c)(2), [Filing 47](#), and Motion to Appoint Counsel, [Filing 45](#). The defendant's Motion to Reduce Sentence is for relief pursuant to the 2023 U.S. Sentencing Guidelines amendments of [U.S.S.G. § 1B1.13](#) or [U.S.S.G. § 1B1.10](#), providing for the retroactive application of Amendment 821. [Filing 47](#). Pursuant to General Order 2025-02, the United States Probation Office submitted a worksheet in this case which states that the defendant is not entitled to a reduction. [Filing 49](#). Specifically, the United States Probation Office stated,

Mr. Barajas is not a "zero-point offender." Reducing the "status points" increase to a one-point enhancement would ordinarily result in a decrease to a Criminal History Category V (12 points versus 13); however, it was determined Mr. Barajas was a Career Offender at the time of sentencing, resulting in a Criminal History Category of VI under USSG § 4B1.1. The defendant is therefore not eligible for a sentence reduction under Amendment 821.

[Filing 49](#). The Court has conducted its own review of the defendant's *pro se* Motion along with other relevant matters in the record. The Court concludes that the defendant is not entitled to the requested sentencing relief. The defendant's *pro se* Motion to Reduce Sentence is without merit and will be denied.

The defendant's Motion to Appoint Counsel will also be denied. "[A] defendant's constitutional and statutory rights to assistance of counsel does not extend to postconviction

proceedings beyond a direct appeal, including postconviction proceedings under 18 U.S.C. § 3582(c).” *United States v. Washington*, No. 6:02-CR-03110-MDH, 2022 WL 17637631, at *1 (W.D. Mo. Dec. 13, 2022) (citing cases); *cf. United States v. Meeks*, 971 F.3d 830, 833 (8th Cir. 2020) (“[T]here is no Sixth Amendment right to counsel in sentence modification proceedings under § 3582(c)”) (quotation marks and citation omitted). Accordingly,

IT IS ORDERED:

1. The defendant’s *pro se* Motion to Reduce Sentence, Filing 47, is denied; and
2. The defendant’s *pro se* Motion for Appointment of Counsel, Filing 45, is denied.

Dated this 11th day of June, 2025.

BY THE COURT:



Brian C. Buescher
United States District Judge